

ZONING BOARD OF APPEALS

Tuesday, June 20, 2006
6:30 P.M. – Conference Room B
Rockford City Hall, 425 East State Street

Present:

ZBA Members: Tom Morgan, Chairman
Joe Dunker
Alice Howard
Fred Money
William Orr
Tom Przytulski, Jr.
Dan Roszkowski

Absent:

Staff: Todd Cagnoni – Manager of Current Planning
Sandra Hawthorne – Senior Administrative Assistant
Jon Hollander – City Engineer, Public Works
Kerry Partridge – Attorney, Legal Department
Frank Schmitt – Chief, Fire Prevention Division

Others: Alderman Victory Bell (left at 8:15 PM)
Alderman Lenny Jacobson (left at 7:20 PM)
Alderman Doug Mark (left at 7:35 PM)
Alderman Nancy Johnson
Alderman Bill Timm
Kathy Berg, Stenographer
Applicants and Interested Parties

The meeting started at 6:30 P.M. A **MOTION** was made by Dan Roszkowski to **APPROVE** the minutes of the May 16, 2006 meeting as submitted. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 7-0.

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032-06

Applicant
Ward N/A

4775 Linden Road

John Kapotas

Annexation Agreement and Zoning Map Amendment from County CG, Commercial General and County R-3, Multifamily Residential to City C-2, Commercial Community Zoning District for Parcel 1 and Parcel 2 and City R-3, Multifamily Residential Zoning District for Parcel 3.

Laid Over and Revised from May meeting

This property is located on the south side of Linden Road, approximately 1,400 feet east of Alpine Road. Nicholas Kapotas and John Kapotas reviewed the request for annexation. Nicholas Kapotas stated the plan originally presented to the Board at the May meeting has been revised to eliminate the request for a gas station, convenience store and liquor sales and to change the original request for C-3 zoning for Parcel 1 to C-2 zoning.

Staff Recommendation was for Approval.

Attorney John Young was present. He stated he had represented the objectors at the May meeting and asked the Applicant to clarify that the request before the Board at this time now does not include a gas station, convenience store and liquor sales. The Applicant responded that it did not, and Mr. Cagnoni verified. Attorney Young stated his clients had no objection to the proposal as now presented.

A **MOTION** was made by Joe Dunker to **APPROVE** the Annexation Agreement and Zoning Map Amendment from County CG, Commercial General and County R-3, Multifamily Residential to City C-2, Commercial Community Zoning District for Parcel 1 and Parcel 2 and City R-3, Multifamily Zoning District for Parcel 3 at 4775 Linden Road. The Motion was **SECONDED** by William Orr and **CARRIED** by a vote of 7-0. Approval is subject to the following conditions.

1. Subject to the terms of the Annexation Agreement and City of Rockford Codes and Regulations

ZBA 032-06
FINDINGS OF FACT FOR A ZONING MAP AMENDMENT FROM
COUNTY CG, COMMERCIAL GENERAL DISTRICT TO C-2, COMMERCIAL
GENERAL DISTRICT FOR PARCEL I & PARCEL II AT
4775 LINDEN ROAD

Approval of this Zoning Map Amendment is based upon the following findings:

- 1) The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood.
- 2) The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as RM, Medium Density Residential.

ZBA 032-06
FINDINGS OF FACT FOR A ZONING MAP AMENDMENT FROM COUNTY CG, COMMERCIAL
GENERAL DISTRICT AND COUNTY R-3, MULTIFAMILY RESIDENTIAL DISTRICT
TO R-3, MULTIFAMILY RESIDENTIAL DISTRICT FOR PARCEL III AT
4775 LINDEN ROAD

Approval of this Zoning Map Amendment is based upon the following findings:

- 1) The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood.
- 2) The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as RM, Medium Density Residential.

034-06 **3423 North Central Avenue**
Applicant Amy L. Silvestri
Ward 9 **Zoning Map Amendment** from R-1, Single Family Residential to RM, Multi-family
 Residential Zoning District
 Laid Over from May meeting

This item was before the Board on May 16, 2006. At that meeting, Attorney Silvestri indicated her client had been unable to attend. The Board indicated they were not comfortable approving the request without any knowledge of what was to be built on the property. Alderman Bill Timm was present at the May meeting and pointed out that the property currently had a van and junked car parked on the grass. Staff Recommendation was for Denial. Attorney Silvestri requested this item be Laid Over to the June meeting to allow her client to define the use of the property. She also stated she would address the issues of vehicles parked on the property with her client.

Prior to the present meeting, a written request was received by the applicant's attorney to again Lay Over this item to the July 18, 2006 Zoning Board of Appeals meeting.

A **MOTION** was made by Fred Money to **LAY OVER** the Zoning Map Amendment from R-1, Single Family Residential to RM, Multi-family Residential Zoning District at 3423 North Central Avenue. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 7-0.

022-06 **623 North Madison Street**
Applicant Theodore Liebovich
Ward 3 **(A) Special Use Permit** for a used passenger vehicle sales lot in an I-1, Light
 Industrial District
 (B) Variation to allow existing conditions to remain as-is as per the submitted site
 plan in an I-1, Light Industrial District
 Referred back to ZBA

The subject property is located along the east side of North Madison Street, 66 feet south of Olive Street. This meeting was heard at the April 2006 Zoning Board of Appeals meeting. Staff Recommendation was for Denial. At that meeting, the Board failed to reach a majority vote, and the application was Denied.

Because there were only 5 Board members in attendance at the April meeting, the Applicant had requested that this item be referred back to the Zoning Board

Attorney Theodore Liebovich reviewed the requests. Mr. Storey's original business was located at 826 West State Street for 50 years. That property was part of the West State Street acquisition. Attorney Liebovich stated the proposed Madison Street site is in an area with manufacturing sites, as well as industrial along the corridor. He stated that in February 2004, 769 North Madison was approved for a mechanical repair shop. Attorney Liebovich felt the Applicant's proposed location is less intrusive than the 769 location. He stated Mr. Storey would be selling vehicles wholesale and they would be sold by appointment only. Attorney Liebovich stated the Applicant's proposal will not interfere with the City's 2020 Plan for development. He explained his client is only requesting the Special Use Permit for a three year period with a limitation of not more than 6 vehicles for sale at one time. He further explained the Variation is requested because of the slope of the land in the back of the building.

William Orr stated the 3 year limitation was not stated in any of the documents. Mr. Cagnoni stated the three year period was stated on the application submitted by Mr. Storey.

Staff Recommendation was for Denial. One Objector was present.

Alderman Doug Mark, whose Ward this property is in, stated he disagrees with the application. He said the 2020 Plan states obsolete industrial uses should be replaced with recreational uses. The 2020 Plan was adopted by City Council over a year ago. He further stated the River District Plan was adopted a little less than two years ago. The goal of Madison Street is that of recreational use, with new housing where applicable. Alderman Mark's concern was that the proposed use is not consistent with the City's plan for Madison Street. Similar businesses have wanted to locate there, and were told this was not the area for their type of use. Alderman Mark was also concerned with the client asking for a limitation on a Special Use Permit because the intent of a Special Use Permit is to stay with the property, not the owner. He further stated the next tenant may want to continue this use once it is established. Alderman Mark pointed out that downtown zoning was adopted to change Madison Street to C-4, Commercial Oldtown Zoning at the June 19th, 2006 Codes & Regulations meeting. He reiterated he is opposed to approving new uses of this nature on Madison Street.

Attorney Liebovich responded. He stated this corridor will not be converted to the 2020 Plan uses within a period of three years. He felt this application is restricted to its use and the number of years, it will not interfere with the plans of the City.

Chairman Morgan stated he did not feel any harm would come in allowing this application to run for three years. He pointed out that the Board had approved a high end venture with a boat dock, restaurant, shops, and lounge several years ago for this corridor and this venture has still not occurred.

Fred Money asked what type of buffer would be planned. Attorney stated there would be bushes and a gate with slates going through it.

Mr. Cagnoni stated the City Council Codes and Regulations Committee directed the Legal Director to change the property along this Madison corridor that was zoned as I-1 to C-4. The 2020 Plan was adopted in 2004. There are Special Use Permits in effect along this corridor that were granted prior to the adoption of the 2020 Plan, such as the one at 769 North Madison. He explained that those businesses that are non-conforming will be grandfathered in. Some uses will be non-conforming, but the structures themselves will become conforming, which is a benefit to the property owners.

A **MOTION** was made by Joe Dunker to **DENY** the Special Use Permit for a used passenger vehicle sales lot in an I-1, Light Industrial District; and to **DENY** the Variation to allow existing conditions to remain as-is as per the submitted site plan in an I-1, Light Industrial District at 623 North Madison Street. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 4-3 with Tom Morgan, Alice Howard, and Dan Roszkowski voting Nay.

ZBA 022-06
FINDINGS OF FACT FOR A SPECIAL USE PERMIT
FOR A USED PASSENGER VEHICLE SALES LOT
IN A I-1, LIGHT INDUSTRIAL DISTRICT AT
623 NORTH MADISON STREET

Denial of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will be detrimental to and endanger the public health, safety, morals, comfort and general welfare of the community. The City has adopted a 2020 Plan that designates the Madison Street corridor as a mix of commercial and residential uses. The proposed industrial use is inconsistent with this plan and therefore is not in the City's best interest.
2. The Special Use Permit will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will substantially diminish and impair property values within the neighborhood. The subject property is surrounded by residential uses on two sides. The proposed industrial use would have a negative impact on these surrounding residential uses.
3. The establishment of the special use will impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have not been provided.
5. Adequate measures have not been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use does not conform to the applicable regulations of the I-1 District in which it is located.

ZBA 022-06
FINDINGS OF FACT FOR A VARIATION TO ALLOW EXISTING
CONDITIONS TO REMAIN AS-IS AS PER THE SUBMITTED SITE PLAN
IN A I-1, LIGHT INDUSTRIAL ZONING DISTRICT AT
623 NORTH MADISON STREET

Denial of this Variation is based upon the following findings:

1. Because of the particular physical surrounds, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would not result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out. The required landscaping could be accommodated in the parking lot layout.
2. The conditions upon which a petition for this Variation is based are not unique to the property for which the Variation is sought and are applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is not caused by this Ordinance and has been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.

6. The proposed Variation will impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does not comply with the spirit and intent of restrictions imposed by this Ordinance.

014-06 **1019 and 1021 South Main Street**
Applicant Willie E. Johnson
Ward 5 **Special Use Permit** for indoor retail liquor sales by the drink in conjunction with a night club in a C-2, Commercial Community Zoning District
 Laid Over from April meeting

Prior to hearing this item, Fred Money excused himself from the meeting due to a conflict of interest.

The subject property is located on the west side on South Main Street between Kent Street and Morgan Street. This item was on the Zoning Board of Appeals for the March meeting, and was heard at the April 2006 meeting. At that meeting, the Applicant did not have any information on how the business would be operated, hours of operation, what type of club it was, etc. The Board agreed to Lay Over the item for two months until the June meeting of the Zoning Board of Appeals to allow the Applicant time to work with Staff.

Willie Johnson, Applicant, reviewed the request at the present meeting. Alderman Bell spoke on behalf of the Applicant. He stated he believes the type of club Mr. Johnson is proposing will be similar to the American Legion. Alderman Bell feels this club could fit in with the City of Rockford. Alderman stated the 50, 60, 70 age range of people need a place to go. He further stated the owner of the property is a younger individual, but is supportive of Mr. Johnson's venture. Mr. Johnson stated he will be running the business.

Mr. Cagnoni explained to the Board that this item was laid over to verify and clarify some of the issues that were still in the planning stages, such as hours of operation, whether this was to be a private club versus public club, terms of operation were to be solidified and presented back to staff and ZBA. Mr. Cagnoni stated he has not had any contact with the applicant since the April 2006 meeting. He further explained that a staff member had contacted Ald. Bell to notify him this item was back on the agenda and that no information was received from the applicant. Ald. Bell stated he was not certain if the applicant understood what was specifically required of him. Mr. Cagnoni stated a letter was sent to the Applicant on April 19th explaining that the item had been laid over in order to allow him time to provide information to Staff and asking him to contact Mr. Cagnoni as soon as possible. Mr. Cagnoni stated Mr. Johnson has not contacted him since the April meeting. Chief Schmitt stated the Fire Department was not opposed to the use proposed by the Applicant, but wished to make him aware that the building would need to be updated, including fire alarm system, to meet Fire and Building Codes.

Staff Recommendation was for Denial. No Objectors were present.

The Board agreed to lay over the item one more month with the understanding that Mr. Johnson would contact Todd Cagnoni to provide him with more defined plans for this project. Chair Morgan cautioned the Applicant that the Board would not be inclined to lay this item over for any additional length of time after the July meeting and stressed that Mr. Johnson needs to get in touch with Staff.

A **MOTION** was made by Joe Dunker to Lay Over the Special Use Permit for indoor retail liquor sales by the drink in conjunction with a night club in a C-2, Commercial Community Zoning District at 1019 and 1021 South Main Street. The Motion was **SECONDED** by Alice Howard and **CARRIED** by a vote of 6-0, with Fred Money abstaining.

At this point Mr. Money returned to the meeting.

036-06

Applicant
Ward 5

403 15th Avenue

Nicky Robinson/Q's Restaurant & Lounge

Special Use Permit for the sale of liquor by the drink indoors in conjunction with a restaurant/lounge in a C-2, Commercial Community Zoning District

This property is located on the south side of 15th Avenue across the street from Rockford Housing Authority Blackhawk Park housing complex. Attorney Thomas Meyer spoke on behalf of the Applicants, Nicky Robinson and Quartrena Robinson, also present. This property was formerly Lamont's Restaurant and Lounge, and most recently Thirty Something and has been closed for two years. Attorney Meyer stated the Applicant's intent is to serve both lunch and dinner, with a bar. He stated his clients have updated the kitchen to reflect a restaurant use.

Staff Recommendation was for Denial. Staff Recommendation stated this property has an extensive police history and that there is an existing elementary school in close proximity. No Objectors were present

Alderman Victory Bell was present and spoke in favor of the Applicants. He feels there were incidents in the past that were problematic due to the business at that time as well as the surroundings. He offered his support and expects this will be a quality business.

Alice Howard stated she would like to see this business reopen and feels the applicant should not be held responsible for what has occurred under the previous owners. Attorney Meyer stated security cameras have been put up, and his client is willing to put up additional ones if required. Alice asked if security would be on the property if needed. Mr. Robinson stated they do not have a problem hiring security to be certain their patrons do not overflow into the park across the street or neighboring properties. Mrs. Robinson stated they have purchased a mini-camper for security people in the event the weather is cold or rainy. She stated she is from Rockford and wants to see this area bloom. She further stated they have invested in this building and would like to give something back to minorities as well as the community.

Chairman Morgan asked the applicant to define "lounge", stating he does not want to see a lounge serving liquor at lunchtime with the school in close proximity. Chairman Morgan further stated he has seen this area make a lot of progress and would not want to see it deteriorate back to what it was. Attorney Meyer stated people would not be hanging around all day drinking. Mr. Robinson also agreed this would not be the case.

Mr. Cagnoni stated if the Board feels this request is reasonable, they could put conditions such as hours of operations, landscaping, interior layout to reflect that of a restaurant rather than a lounge, and to ask for security as conditions of approval. He stated he appreciates the Applicant's sincerity to improve the area and to run a safe establishment.

Mr. Orr stated he would like to see a condition stating there will be no additional requests for sale of packaged liquor at this establishment.

A **MOTION** was made by Alice Howard to **APPROVE** the Special Use Permit for the sale of liquor by the drink indoors in conjunction with a restaurant/lounge in a C-2, Commercial Community Zoning District at 403 15th Avenue. Dan Roszkowski stated he would prefer this item be Laid Over and the Board was in agreement. The Motion was **WITHDRAWN**. A **MOTION** was made by Dan Roszkowski to **LAY OVER** the Special Use Permit for the sale of liquor by the drink indoors in conjunction with a restaurant/lounge in a C-2, Commercial Community Zoning District at 403 15th Avenue to the July 18, 2006 Zoning Board of Appeals meeting. The Motion was **SECONDED** by Tom Przytulski and **CARRIED** by a vote of 7-0.

037-06 **1401 North Bell School Road**
Applicant Ringland-Johnson, Inc./Ander Smith
Ward 1 **Zoning Map Amendment** from R-1, Single Family Residential (with a Special Use Permit for a Private School) to C-1, Limited Office Zoning District

Prior to discussion, Dan Roszkowski declared he would be abstaining from vote on this item due to a conflict of interest.

This property is located on the east side of the intersection of Guilford and Bell School Road and is an existing private school. Brent Johnson, and Randy Taylor were present. Mr. Johnson explained the Zoning Map Amendment. He stated the Applicants have agreed to putting in a road for emergency vehicle use only and meeting all fire codes. The existing private school is a permitted use in an R-1 Zoning District because it has a Special Use Permit. The intent of the Applicant is to build additions to the site that will amount to more than 10%. Mr. Johnson stated if the zoning were changed to C-1, the Applicants would not have to come back before the Board whenever they wished to make modifications to the property of more than 10%.

Staff Recommendation was for Approval. Objectors were present.

Roxanne Sosnowski, representing Buckley Companies and Stonehaven at 14XX North Bell School Road, stated this property is immediately adjacent to her clients. She requested that this item be Laid Over to determine if the Applicant's plans are not objectionable to her clients. She stated there is concern regarding the circular drive proposed. The adjacent condominiums cater to the elderly population and they are concerned with lighting, traffic and noise. Ms. Sosnowski pointed out that if C-1 zoning is granted as opposed to a Modification of Special Use Permit, this takes away some of the protection that would fall under a Special Use Permit and any conditions that may apply.

Mr. Johnson stated the road is only going in at the request of the Fire Department and will be strictly an emergency lane. There will be no lighting. He does not wish to lay over this item. Chief Schmitt stated in their discussions they would be in agreement with a knock down gate on the emergency road to designate its intent as emergency use only.

Chairman Morgan did not feel comfortable with changing zoning to C-1, which would give the Applicant or future owners cart blanche to do what they want without coming back before the Board for determination. Mr. Taylor stated their enrollment is increasing and they wish to move quickly to have these additions completed for the school year. Tom Przytulski was in agreement with Chairman Morgan's concerns.

Mr. Cagnoni explained the access to the property is something the Fire Department has requested. The proposed addition would be allowed under the original Special Use Permit. Mr. Cagnoni stated the Board could approve it as a Modification to Special Use Permit, but he is leery of doing this since no site plan has been submitted. Mr. Johnson stated they did have a site plan with them, and Staff stated this would be an option if the Board wished to review. Ms. Sosnowski stated her client's concern was with the tree line. Mr. Johnson stated they preferred not to cut any trees, but that determination will depend on water flow. Chief Schmitt explained a typical fire lane is 20 feet wide, but the City compromised to 12 feet for less impact on the neighborhood. He also stated the cul-de-sac would be a place to allow the children go to in the event of evacuation.

A **MOTION** was made by Joe Dunker to **DENY** the Zoning Map Amendment from R-1, Single Family Residential (with a Special Use Permit for a Private School) to C-1, Limited Office Zoning District) and to **APPROVE** a Modification of Special Use Permit per the submitted site plan at 1401 North Bell School Road. The Motion was **SECONDED** by Tom Przytulski and **CARRIED** by a vote of 6-0 with Dan Roszkowski abstaining. Approval is subject to the following conditions:

1. The existing landscaping along the north property be maintained as it currently exists, with the exception that modification may take place only to the existing landscaping to accommodate drainage requirements.
2. That the property be in compliance with lighting, landscaping, and parking ordinance.

ZBA 037-06
FINDINGS OF FACT FOR A ZONING MAP AMENDMENT
FROM R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT
TO C-1 LIMITED OFFICE DISTRICT AT
1401 NORTH BELL SCHOOL ROAD

Denial of this Zoning Map Amendment is based upon the following findings:

- 1) The proposed Zoning Map change is not consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal does not promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is not consistent with the comprehensive plan and surrounding uses;
 - b. This proposal does not protect the character, scale and stability of the adjacent residential and commercial because the proposed development will not meet all development requirements of this site; and
 - c. The proposed map amendment would not allow for a reasonable development to take place consistent with the surrounding neighborhood.
- 2) The proposed Zoning Map Amendment is not consistent with the approved general plan, the Year 2020 Plan, for the area.

ZBA 037-06
FINDINGS OF FACT FOR A MODIFICATION OF SPECIAL USE PERMIT
PER THE SUBMITTED SITE PLAN AT
1401 NORTH BELL SCHOOL ROAD

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the Zoning District in which it is located.

038-06 Applicant Ward 1	<u>510 South Perryville Road</u> Sal Rushiti Special Use Permit for the sale of liquor by the drink outdoors in conjunction with a restaurant in a Commercial Community Zoning District
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The subject property is located at the southeast corner of the intersection of South Perryville Road and Walton Street, within a strip mall. The restaurant is Valbona's Italian Grill. Andy Rushiti reviewed the request for Special Use Permit. Mr. Rushiti wishes to construct a 824 square feet wood deck for outside

dining and drinking. There are other restaurants in the area with outdoor seating. Mr. Rushiti stated the restaurant will be remodeled and opened for lunch and dinner. He will be expanding the bar by ten seats, but the primary use will be a restaurant.

Staff Recommendation was for Approval with 4 conditions. No Objectors were present.

Mr. Cagnoni stated the original Special Use Permit was for liquor sales in conjunction with a restaurant with an approved layout. Any modification to the layout of the building would need to be approved. Mr. Cagnoni stated Staff would like input on how the new facility would operate, menu, and hours of operation. Staff is in agreement with outside seating. Mr. Cagnoni stated staff prefers a permanent type walkway rather than the temporary one proposed. He stated the proposed fencing would give a better lounge atmosphere if it were shorter than six feet high and not sight obscuring. The Applicant stated he would prefer a lower fence, perhaps wrought iron. Staff is willing to work with the Applicant on the site plan.

A **MOTION** was made by Fred Money to **APPROVE** the Special Use Permit for the sale of liquor by the drink outdoors in conjunction with a restaurant in a Commercial Community Zoning District at 510 South Perryville Road. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 7-0. Approval is subject to the following conditions:

1. Submittal of a revised site plan for staff review and approval showing a more permanent patio with a walkway, fencing and some landscaping.
2. Meeting all applicable Building and Fire Codes
3. Meeting all City liquor codes
4. Fence permit must be received for required fencing

ZBA 038-06
FINDINGS OF FACT FOR A SPECIAL USE PERMIT FOR THE SALE OF LIQUOR
BY THE DRINK (OUTDOORS) IN CONJUNCTION WITH A RESTAURANT
IN A C-2 COMMERCIAL COMMUNITY DISTRICT AT
510 S. PERRYVILLE ROAD

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood. There are similar uses in the City and in the area.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been, are being, or will be provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall conform to the applicable regulations of the C-2, District in which it is located.

039-06

Applicant
Ward 8

3929 Broadway

James TerHark/Habaneros Mexican Grill

Modification of Special Use Permit #156-91 (Ordinance 1991-312-0) for the sale of liquor by the drink indoors and outdoors in conjunction with a restaurant in a C-2, Commercial Community Zoning District

This property is located at 3929 Broadway, Tiffany Square, which is four lots west of the southwest corner of Alpine and Broadway. James TerHark, Applicant, reviewed the request. He explained that the original Special Use Permit was for Suites 11 and 12; however, the restaurant occupies Suite 10 as well. Mr. TerHark stated they wish to expand into Suite 13 as well, using most of it for the restaurant and the remaining portion as storage.

Staff Recommendation was for Approval with 2 conditions. No Objectors were present.

A **MOTION** was made by Joe Dunker to **APPROVE** the Modification of Special Use Permit #156-91 (Ordinance 1991-312-0) for the sale of liquor by the drink indoors and outdoors in conjunction with a restaurant in a C-2, Commercial Community Zoning District at 3929 Broadway. The Motion was **SECONDED** by Alice Howard and **CARRIED** by a vote of 7-0. Approval is subject to the following conditions:

1. Meeting all applicable liquor laws of the City of Rockford
2. Meeting all applicable Building and Fire Codes

ZBA 039-06

**FINDINGS OF FACT FOR A MODIFICATION OF SPECIAL USE PERMIT FOR
THE SALE OF LIQUOR BY THE DRINK (INDOORS AND OUTDOORS) IN
CONJUNCTION WITH A RESTAURANT IN A C-2,
COMMERCIAL COMMUNITY ZONING DISTRICT AT
3929 BROADWAY**

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district. No new construction will take place that will alter the existing building setbacks.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been, are being, or will be provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall conform to the applicable regulations of the C-2 District, Commercial Community District, in which it is located.

040-06

Applicant
Ward 7

1326 Kilburn Avenue

Billie Roby

Modification of Special Use Permit #118-05 (Ordinance 2006-43-0) to allow passenger vehicle sales, sale of wheels and a car wash in a C-3, Commercial General Zoning District

This property is located at the Southwest corner of the intersection of Kilburn Avenue and Auburn Street. Terrance and (Mrs.) Billie Roby were present. Terrance Roby is the property owner, and his wife, Billie Roby is the Applicant. Mr. Roby reviewed their request for Modification of Special Use Permit. He stated it is their intent to sell used cars, wheels, detailing, and a car wash. Mr. Cagnoni stated this property has requested Special Use Permits in the past, but landscaping was an issue. A condition of approval is that the landscaping be maintained and replaced as needed. The Applicant is agreeable to this condition. Condition 1) stated that no more than ten vehicles be allowed for sale at any one time. The Applicant requested that this be changed to allow twelve vehicles. Mr. Cagnoni stated Staff had no objections.

Staff Recommendation was for Approval with 6 conditions. No Objectors were present.

A **MOTION** was made by Dan Roszkowski to **APPROVE** the Modification of Special Use Permit #118-05 (Ordinance 2006-43-0) to allow passenger vehicle sales, sale of wheels and a car wash in a C-3, Commercial General Zoning District at 1326 Kilburn Avenue, with condition 1) modified to allow 12 vehicles for sale at any one time. The Motion was **SECONDED** by Alice Howard and **CARRIED** by a vote of 7-0. Approval is subject to the following conditions:

1. The site be limited to no more than twelve (12) vehicles for sale at any one time.
2. Cars waiting for wheel installation or detailing/washing be limited to the area at the southeast portion or the site near the bay entrance.
3. All landscaping be maintained and replaced as needed.
4. No additional services be provided at this site without approval of a Modification of the Special Use Permit
5. No automobile parts or inoperable vehicles be stored outside at any time
6. No automotive repair be conducted at the site other than the installation of wheels and tires

ZBA 040-06

**FINDINGS OF FACT FOR A MODIFICATION OF A SPECIAL USE PERMIT FOR TO
ALLOW PASSENGER VEHICLE SALES, SALE OF WHEELS AND A CAR WASH
IN A C-3, COMMERCIAL GENERAL DISTRICT AT
1326 KILBURN AVENUE**

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood. There are other similar uses in the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district. The neighborhood is fully developed.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been, are being, or will be provided.

5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall conform to the applicable regulations of the C-3, District in which it is located.

041-06 **2106 Sandy Hollow Road**
Applicant Inglesia Bautista Roca/DeLa Eternidad
Ward 6 **Special Use Permit** for a church and church related facilities in a R-1, Single Family
Residential Zoning District

This property is located on the north side of the intersection of Sandy Hollow Road and 16th Street and is currently a single-family residence with a one car garage. Attorney Kaycee Chadwick and Tom Graceffa were present. Attorney Chadwick stated the subject property has been purchased by an existing church. The plan is to use the home as a parsonage and build a church on the 2106 address. The existing evergreen trees will provide some camouflage from the street. Mr. Scarabelli stated the peak of the church will be just slightly taller than a two story house.

Staff Recommendation was for Approval with no conditions. Objectors were present.

Benjamin Chitwood, 3209 18th Street, adjacent property owner, stated he and his wife have lived adjacent to this property for 34 years. Mr. Chitwood stated he owns to the middle of the dead end street. He further stated there is no access to this property except to the front, which is on 18th Street. He feels the proposed application will be detrimental to the community because it will take away the openness. He stated his property would be "totally devastated" if a street is allowed to come in from Sandy Hollow.

Kathaleen Gosha, adjacent property owner at 3213 18th Street was also present as an Objector, although she did not speak.

Jon Hollander, Public Works, clarified that there was a past plan for 16th street to extend out to Sandy Hollow. Now that the street has been vacated, this is not going to happen. Mr. Chitwood stated he has no objective to the Applicant's proposal if 16th Street will not be extended. Mr. Cagnoni verified there was discussion of extending 16th street, but it was decided this would not occur.

Alderman Jacobson stated the unknown regarding the extension of 16th Street was also his concern. He appreciates the petitioner revising his original site plan so that there would be a buffer to the neighbors to the north. Alderman Jacobson asked the Applicant for an explanation of buffering on Parcel 3. Mr. Graceffa explained they are providing standard buffers on three sides of the parking lot as well as extending all the way to Sandy Hollow Road. Given this information, Alderman Jacobson stated he is totally supportive of the church.

A **MOTION** was made by William Orr to **APPROVE** the Special Use Permit for a church and church related facilities in a R-1, Single Family Residential Zoning District at 2106 Sandy Hollow Road. The Motion was **SECONDED** by Tom Przytulski and **CARRIED** by a vote of 7-0.

ZBA 041-06
FINDINGS OF FACT FOR A SPECIAL USE PERMIT FOR A CHURCH
AND CHURCH RELATED FACILITIES IN A R-1 SINGLE-FAMILY
RESIDENTIAL ZONING DISTRICT AT
2106 SANDY HOLLOW ROAD

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance of operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community. Church's

are one of the less intense land uses and therefore should have little to no impact on the surrounding community.

2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood. The site will be improved with landscaping and all efforts will be made to preserve any existing trees.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been, are being, or will be provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall conform to the applicable regulations of the R-1 District in which it is located. All setbacks, height restrictions, and maximum impervious surface ratios will comply with the R-1 Zoning District regulations.

042-06 **3210 Williams Avenue**
Applicant David Walters
Ward 9 **Zoning Map Amendment** from C-2, Commercial Community Zoning District to I-1, Light Industrial Zoning District
 Special Use Permit for a Planned Mixed Use Development for warehouse storage, automobile storage and repair in an I-1, Light Industrial Zoning District

This property is located 200 feet east of the intersection of Kilburn and Williams on the northwest side. Attorney Erik Jacobs, and David Walters were present. Attorney Jacobs reviewed the Applicant's request. The Applicant's proposal is for 3 mini warehouse buildings and one automobile repair/storage shop.

Staff Recommendation was for Approval with 7 conditions. Condition 4) was that overnight storage of passenger vehicles is prohibited. Although the Applicant agreed with Staff concerns that this site not become a junk yard, he stated that not allowing outside storage would be difficult for his repair business. Attorney Jacobs asked for an allowance of outside storage up to 72 hours. Chairman Morgan felt this type of timeframe would be difficult for Staff to enforce. Mr. Cagnoni stated Staff understands that there are situations where a vehicle would be outside for a short period of time. In order to control this, a limitation could be put on the amount of vehicles that could be stored outside. It was agreed by Staff that condition 4) could be modified to allow outside storage of four vehicles only.

Alderman Timm was present. He stated he is not Objecting to the Applicant's proposal, but is concerned with allowing outside storage of vehicles, trailers, and trucks. He feels that in most cases owners comply with outside storage for about 6 months to a year, but then go downhill.

A **MOTION** was made by William Orr to **APPROVE** the Zoning Map Amendment from C-2, Commercial Community Zoning District to I-1, Light Industrial Zoning District and to **APPROVE** the Special Use Permit for a Planned Mixed Use Development for warehouse storage, automobile storage and repair in an I-1, Light Industrial Zoning District at 3210 Williams Avenue. The Motion was **SECONDED** by Tom Przytulski and **CARRIED** by a vote of 7-0. Approval is subject to the following conditions:

1. The site must be developed as per the approved site plan
2. A parking lot permit showing the required parking must be submitted for staff review and approval
3. A landscaping plan must be submitted for staff review and approval
4. Overnight storage of passenger vehicles is limited to four (4)
5. Outside storage of trailers, boats and trucks is prohibited

6. All vehicles awaiting repair must have current and valid license plates
7. The property must be combined to one lot

ZBA 042-06
FINDINGS OF FACT FOR A ZONING MAP AMENDMENT
FROM C-2 COMMERCIAL COMMUNITY ZONING DISTRICT
TO I-1 LIGHT INDUSTRIAL ZONING DISTRICT AT
3210 WILLIAMS STREET

Approval of this Zoning Map Amendment is based upon the following findings:

- 1) The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses, which are already primarily industrial in character;
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood.
- 2) The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as C, Commercial Retail.

ZBA 042-06
FINDINGS OF FACT FOR A SPECIAL USE PERMIT FOR A PLANNED MIXED USE
DEVELOPMENT FOR WAREHOUSE STORAGE AUTOMOBILE STORAGE AND REPAIR
IN A I-1 LIGHT INDUSTRIAL ZONING DISTRICT AT
3210 WILLIAMS STREET

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood. A landscaping buffer will be added around the property in order to mitigate any nuisance to the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district. The surrounding neighborhood is already primarily industrial in character.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been, are being, or will be provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall conform to the applicable regulations of the I-1 District in which it is located.

043-06

Applicant
Ward 14

4412 Manchester Drive

Solaces Ent. Inc.

Modification of Special Use Permit (ZBA 059-00) to permit the outdoor sale of food and outdoor liquor sales by the drink in conjunction with a restaurant, lounge and night club in a C-3, Commercial General Zoning District

This property is located on the north side of Manchester Drive, southwest of the intersection of South Alpine Road and Harrison Avenue and is the former Cubby O'Brien's East, South Cactus Forty Restaurant, Bennie's Food and Spirits, and Dub's Bar and Grill. The building is currently being remodeled and is not open for business. Mark Kehely and Pojspong Kummun were present. Mr. Kehely reviewed the request for Special Use Permit. The Special Use Permit for an outdoor beer garden has lapsed. The Applicant's intent is to install a patio on the south end of the building, which would be within the required front yard. Mr. Kehely stated the proposed deck would be increased to 1,400 square feet. The Applicant will install landscaping and low lighting. Mr. Kehely stated the Applicant is also willing to put up a fence if that is Staff's request. Mr. Kummun stated the outdoor area would be open to midnight during the week, and up to 2:00 A.M. on weekends. Mr. Kummun emphasized the intent is not to have a nightclub that is limited to young adults only. He stated they are leaning towards young professional and older clients, with attention to food, entertainment, and relaxing atmosphere. The outside area is to allow more space. Mr. Kummun described the outside seating as a garden area, with plants, candles, and an area of comfort. Staff was concerned with the lack of parking, which has been a problem for a number of years. The property owner, Martha Andrews, also owns two adjacent parcels. Staff has requested that the Applicant secure a written parking agreement from the owner for use with this establishment. Staff Recommendation also stated a patio is not a permitted use in the front yard and there is a church less than 100 feet away.

Chairman Morgan stated he does not want an establishment similar to Cubby's as was there previously. Mr. Kehely stated this is not the intent of the applicant. Mr. Kummun explained he would like to have a lot of greenery outside, giving the appearance of comfort, good food and entertainment. He stated outside speakers would not be comfortable for the residential areas that are in proximity and this is not his intent.

Staff Recommendation was for Denial. No Objectors were present.

Fire Chief Schmitt stated the fenced in patio only allows access and exit from the building. Mr. Kehely stated building code states they have to exit back through the building. Chief Schmitt pointed out that with the its size, there is a potential to have up to 200 people on the patio and should the building catch fire or other disaster, people would be unable to exit.

Dan Roszkowski also expressed concern with the lack of parking.

Mr. Cagnoni stated Staff is not in objection with outdoor seating areas as in conjunction with restaurants. When Cubbies East was originally established, the adjacent church was not there. Within the last year it was questioned whether the existing liquor license would continue because of the time frame lapsed. It was determined by Legal that the time frame was not long enough to cause a lapse. He explained that in the past there have been problems with the sale of alcohol at this location. Mr. Cagnoni suggested the restaurant function for a period of time to allow Staff to see how the place operates to establish a track record before allowing the outside liquor sales. Mr. Kummun stated he hopes to open within the next two months.

Mr. Kehely stated it is not the intent of the applicant to make this a sports bar and that the Applicant is trying to do this project on an upscale level. Dan pointed out the number of establishments that have been at this site, and stated the City has no control over what will occur in the future. There is also a concern that a church has been established since then. Mr. Kehely stated they were willing to limit the number of people allowed on the patio. Mr. Roszkowski stated since the applicant does not plan to open for two months, the season for the patio would almost be over by time of approval and waiting to see how the business operates would not affect its use.

Attorney Partridge suggested the Applicant be allowed to withdraw this request and resubmit a revised application. This would not hold up the Applicant and would allow the City a year to see how the business was operating. Mr. Kehely declined this proposal, stating Mr. Kummun preferred not to wait a year.

Mr. Cagnoni stated the Applicant is now aware of what his options are, which include withdrawal of the application, resubmittal of a revised application, or the preference to go through with the application as submitted. Mr. Cagnoni explained that if this application were denied, the Applicant would not be able to reapply for the same use for two years. Mr. Kehely suggested limiting the actual size of the deck. Mr. Cagnoni stated all concerns still stand.

There was discussion of allowing the request for a limited time period. Attorney Partridge stated he would need to research whether the Special Use Permit could be specified for a time period from a legal standpoint. Mr. Cagnoni stated we also need to consider whether we want to start a trend of limiting Special Use Permit's. He also pointed out that if the City approves the Special Use Permit for a specified period of time, then finds it needs to deny it when it comes up for renewal the burden is on the City to prove problems at the property. Mr. Cagnoni also pointed out that there were other concerns of Staff besides the outside sale of liquor. There are parking issues, the close proximity of the church, as well as what the interior layout is going to be. The Board felt the church was not an issue, since the restaurant/bar was already established when the church chose to build at this location.

Mr. Kummun was understanding of Staff's concerns. He stated he is not positive this project will succeed, but hopes with strong management and the right environment that it will.

A **MOTION** was made by Dan Roszkowski to **LAY OVER** the Modification of Special Use Permit (ZBA 059-00) to permit the outdoor sale of food and outdoor liquor sales by the drink in conjunction with a restaurant, lounge and night club in a C-3, Commercial General Zoning District. The Motion was **SECONDED** by Tom Przytulski and **CARRIED** by a vote of 7-0

With no further business to come before the Board, the meeting was adjourned at 9:00 P.M.

Respectfully submitted,

Sandra A. Hawthorne
Sr. Administrative Assistant
Zoning Board of Appeals